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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1272nd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 19 March 1998, at 3 p.m.

Chairman: Mr. ABOUL-NASR

later: Mr. DIACONU
later: Mr. ABOUL-NASR
later: Mr. SHERIFIS

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF COPIES OF PETITIONS AND REPORTS UNDER ARTICLE 15 OF THE CONVENTION (agenda item 10)

1. The CHAIRMAN said that issues relating to article 15 of the Convention had been pending for an unduly long time. He suggested that the Committee should appoint a special rapporteur from among its members to report to the Committee at its next session on the remaining Non-Self-Governing Territories and advise the Committee on how to proceed. If the Committee agreed, he would invite Mr. van Boven to undertake the task.

2. It was so agreed.

3. Mr. Diaconu took the Chair.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Draft concluding observations concerning the seventh to ninth periodic reports of Israel (CERD/C/52/Misc.29, future CERD/C/304/Add.45) (continued)

Paragraph 20 (continued)

4. Mr. BANTON (Country Rapporteur) proposed replacing paragraph 20 by the following new paragraph to be inserted before existing paragraph 12 in section E (Concerns and recommendations):

> "With respect to article 1 of the Convention, the Committee requests the State party to supply it with details of any court decisions which help to distinguish inequality of treatment on grounds of race, colour, descent or national origin from inequality of treatment on other grounds such as those related to public security".

He had used the term "inequality of treatment" rather than "discrimination" because there were circumstances in which discrimination might be lawful.

5. Mr. ABOUL-NASR said that the wording of the paragraph was extremely weak. The fact that there was not a single expression of concern under section E meant that Israel was being sheltered from criticism and treated as a special case. He suggested as a minimum that the word "any" before "court decisions" should be deleted.

6. Mr. RECHETOV proposed replacing the word "distinguish" by "establish".

7. Mr. BANTON (Country Rapporteur) suggested that the same end might be achieved by omitting the words "help to" before "distinguish".

8. Mr. VALENCIA RODRIGUEZ proposed that a reference to article 6 should be inserted as it related specifically to national tribunals.

9. Mr. van BOVEN proposed that the words "or other authoritative sources" should be inserted after "court decisions".

10. Mr. BANTON (Country Rapporteur) read out the following amended version of the paragraph:

> "With respect to articles 1 and 6 of the Convention, the Committee requests the State party to supply it with details of court decisions or other authoritative sources which distinguish inequality of treatment on grounds of race, colour, descent or national or ethnic origin from inequality of treatment on other grounds such as those related to public security".

11. Paragraph 20 (new paragraph 12), as amended, was adopted.

New paragraph 14

12. Mr. BANTON (Country Rapporteur) proposed inserting the following new paragraph relating to article 5 (b) after paragraph 13:

> "The Committee expresses its profound concern that prisoners, disproportionately of Arab ethnic origin, are subject to inhuman and degrading interrogation under the Landau Commission Rules, and that the Supreme Court has failed to declare this illegal".

13. Mr. ABOUL-NASR welcomed the expression of concern but felt that the word "prisoners" was inaccurate in view of the ambivalent status of the persons concerned. He pointed out that the Supreme Court had not just failed to declare inhuman and degrading interrogation illegal, but had actually made it legal.

14. Mr. de GOUTTES proposed replacing the word "prisoners" by "arrested persons", a broader term which would cover suspects who had not been brought before a court.

15. Mr. BANTON (Country Rapporteur) suggested "detained persons" as an alternative.

16. It was so agreed.

17. New paragraph 14, as amended, was adopted.

Paragraph 21 (continued)

18. Mr. BANTON (Country Rapporteur), referring to the point made by Ms. McDougall at the previous meeting to the effect that inequalities could arise at many stages in the process of administration of criminal justice, said that the listing of all stages would lead to imbalance in the paragraph. It was also a form of wording that had not been used for other States parties.

19. Mr. SHAHI asked why the term "discrimination", which was that used in article 6 of the Convention, had been replaced by inequality.

20. Mr. BANTON (Country Rapporteur) said that discrimination was one of many possible explanations for inequalities, which were simply a matter of fact. It was often easier to establish the existence of inequalities.

21. Mr. ABOUL-NASR said that failure to treat people on equal terms was defined under the Convention as discrimination.

22. Mr. SHAHI said that use of the term "inequality of treatment" instead of "discrimination" would set a precedent which would have to be followed in the Committee's dealings with other States parties.

23. Mr. de GOUTTES said he preferred the term "discrimination", which would cover both direct and indirect forms of inequality of treatment.

24. He suggested that the expression "administration of justice" should be translated into French as "fonctionnement du système judiciaire".

25. Mr. BANTON (Country Rapporteur) proposed amending "any inequalities" to "any inequalities suggestive of discrimination".

26. Mr. SHAHI said that the proposed amendment was an improvement but warned that it still might be invoked as a precedent by other States parties.

27. Mr. de GOUTTES supported the proposed amendment and suggested that it should be translated into French as "toutes formes d'inégalités faisant apparaître une discrimination".

28. Paragraph 21, as amended, was adopted.

29. The draft concluding observations concerning the seventh to ninth periodic reports of Israel as a whole, as amended, were adopted.

30. Mr. ABOUL-NASR said that, despite his reluctance to undermine the consensus on the concluding observations concerning Israel, he would have voted against them if they had been put to the vote. He felt that Israel had been treated leniently and that the text was extremely weak. It contained only one expression of concern regarding a State party in which not a day went by without reports in the media of flagrant cases of racial discrimination and injustice.

31. Mr. SHAHI associated himself with Mr. Aboul-Nasr's statement.

32. Mr. Aboul-Nasr resumed the Chair.

Draft concluding observations concerning the eleventh to fourteenth periodic reports of Yugoslavia (CERD/C/52/Misc.39, future CERD/C/304/Add.50) (continued)

Paragraph 8 (continued)

33. Mr. RECHETOV (Country Rapporteur) drew attention to a proposed amended version of paragraph 8 which would be inserted in the draft concluding observations concerning Yugoslavia as a new paragraph 20:

> "Recalling its General Recommendation XXI, the Committee expresses the opinion that a solution for Kosovo and Metohija should include a

status of autonomy for this part of the State party as a means for enjoyment of human rights by everyone, in particular the elimination of all forms of racial discrimination".

Not all members of the informal working group had been prepared to support the text but it was being offered as a basis for discussion.

34. Mr. SHAHI proposed that the words "a status of autonomy" should be replaced by "a status of the highest level of autonomy". In that connection, he quoted an item published in the International Herald Tribune of Friday, 13 March 1998, dateline Pristina, Yugoslavia, to the effect that Serbian leaders, anxious to stave off new international sanctions, had made their best offer yet the previous day to Kosovo's ethnic Albanians, namely "the highest levels of autonomy". He submitted that the Committee should not be seen to offer less than the Government of Yugoslavia.

35. Mr. DIACONU said the Committee was not competent to pronounce itself on the levels of autonomy each State could grant. He called for a vote on the proposed amendment.

36. Mr. SHAHI said the entire General Recommendation was nothing if not political, which rendered Mr. Diaconu's argument invalid.

37. The amendment was adopted by 8 votes to 2, with 3 abstentions.

38. Paragraph 8 (new paragraph 20), as amended, was adopted 11 votes to 1, with 2 abstentions.

39. The draft concluding observations concerning the eleventh to fourteenth periodic reports of Yugoslavia as a whole, as amended, were adopted.

Explanations of vote

40. Mr. DIACONU said he had voted against the amendment but had been willing to endorse the text as a compromise because there was no right to autonomy under international law, either for individuals or for groups. In accordance with generally accepted instruments of the Organization for Security and Cooperation in Europe (OSCE), autonomy could be a means to which States could resort when they considered it appropriate, taking account of specific circumstances. Many European States had already adopted treaties under which they did not support ethnic autonomy, whether for their minorities in other countries or on their own territories. Mr. Eide, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, had taken a clear position in favour of territorial autonomy as democratic autonomy, and not in favour of ethnocracy or ethnic autonomy. He therefore considered that to recommend to States what kind or degree of autonomy to adopt was beyond the competence of the Committee. By making such recommendations, the Committee was involving itself in politics, or responding to political injunctions. It would then be very easy for Governments to disregard its recommendations.

41. Mr. van BOVEN said the Committee had had a dialogue with the State party on its report, which in itself had been useful, and had been justified in

raising its concerns about Kosovo in the presence of the State party. If the report had not been considered at the present session, the Committee would in any case have taken action on the issue under the prevention procedure. He had supported the new paragraph 20, but would have preferred either to have a separate statement on the issue because of its great seriousness or to have included a separate section in the concluding observations. As adopted, the text contained certain ambiguities as there were paragraphs that referred to Kosovo and others in which the reference was implicit, making the concluding observations as a whole not fully satisfactory.

42. Mr. SHAHI said he had proposed the amendment with a view to promoting a dialogue and solution to the situation in Kosovo, which clearly came within the terms of the Convention. The autonomy under discussion concerned the territorial autonomy of a population living in a compact area.

43. Mr. de GOUTTES said he had abstained in the vote on the amendment because his suggestion - "a higher degree of autonomy", which had been used by the Contact Group - had not been accepted, and the formulation adopted was much stronger. He agreed that it would have been preferable to make a separate statement on the situation in Kosovo in view of its urgency and of the meeting to be held on 20 March with the Commission on Human Rights, which wanted to know what the Committee had done in urgent situations, and especially that in Kosovo.

44. Mr. RECHETOV (Country Rapporteur) said he regretted that the Committee had not used the opportunity afforded by its concluding observations on Yugoslavia to condemn all forms of terrorism; opinions had even been voiced that could be interpreted as supporting terrorism. The Committee had in fact condemned the arbitrary acts and violations committed by the Yugoslav authorities, but there were no arguments that could justify or condone manifestations of terrorism.

45. Mr. GARVALOV said he would also have preferred a separate statement on Kosovo, as the situation there was a special case, which should be considered on its own merits. He had voted for new paragraph 20 as amended because it addressed the issue of Kosovo's status as a special case. It should in no way be construed as being of a general nature and could not concern other cases.

46. Mr. VALENCIA RODRIGUEZ said he had voted in favour of the draft concluding observations and of the paragraph on Kosovo because it was the most important paragraph adopted. He had also been in favour of the amendment because, in the present circumstances, it raised an issue that was constantly evolving in international law.

47. The CHAIRMAN, speaking in a personal capacity, said he had voted for the amendment and the text as a whole, but would also have preferred a separate statement. As Chairman, he had suggested that the Committee should take up the question of Kosovo, but he had been advised to wait until the report of Yugoslavia was considered.

Draft concluding observations concerning the initial and second periodic reports of Armenia (CERD/C/52/Misc.41, future CERD/C/304/Add.51)

Paragraph 13

48. Mr. DIACONU proposed adding the words "wherever possible" at the end of the paragraph, as had been done with other States parties.

49. Paragraph 13, as amended, was adopted.

50. The draft concluding observations concerning the initial and second periodic reports of Armenia, as amended, were adopted.

Draft concluding observations concerning the tenth to twelfth periodic reports of the Netherlands (CERD/C/52/Misc.30, future CERD/C/304/Add.46)

51. Mr. DIACONU (Country Rapporteur) said the Committee's concerns and recommendations had been incorporated into a single section of the concluding observations in order to avoid repetition.

Paragraph 10

52. Mr. DIACONU (Country Rapporteur) proposed revising the last sentence in the paragraph to read: "The Committee draws the attention of the State party to the relevance of its General Recommendation XIX of 1995 for such trends".

53. Mr. VALENCIA RODRIGUEZ said the reference was to the situation in Aruba and the Netherlands Antilles, if it was included in the general text on the State party as a whole, that might suggest that those territories were part of the metropolitan territory of the State party. He wondered whether they were in fact autonomous territories subject to consideration under article 15 of the Convention.

54. Mr. DIACONU (Country Rapporteur) said that paragraph 2 of the draft concluding observations already stated that the report covered the European part of the Kingdom, and additionally Aruba and the Netherlands Antilles. If that was not sufficient in order to make a distinction between the two, the phrase could be rewritten as "the autonomous territories of Aruba and the Netherlands Antilles".

55. Mr. VALENCIA RODRIGUEZ asked whether, in earlier reports of the State party, Aruba and the Netherlands Antilles had been considered as part of the Kingdom or as Non-Self-Governing Territories under article 15.

56. The CHAIRMAN said the Committee had faced the same problem with regard to other States parties in possession of such territories, which currently numbered 17 worldwide; he did not know whether they included Aruba and the Netherlands Antilles.

57. Mr. DIACONU (Country Rapporteur) said the only sources on the subject were the Constitution and national legislation. In accordance with the latter, there was a Constitutional Act by which the two territories were proclaimed to be part of the Kingdom of the Netherlands and had autonomous

status. The Committee would then have to concern itself with the status of the non-metropolitan territories of other States parties, such as France and the United Kingdom, which had territories in other continents.

58. The CHAIRMAN said the Committee would consider the paragraph in the light of the information to be provided by Mr. van Boven, who was studying the question of article 15.

59. The draft concluding observations concerning the tenth to twelfth periodic reports of the Netherlands, as amended, were adopted, with the exception of paragraph 10, consideration of which was deferred.

Draft concluding observations concerning the eleventh to fourteenth periodic reports of the Libyan Arab Jamahiriya (CERD/C/52/Misc.43, future CERD/C/304/Add.52)

Paragraph 9

60. Mrs. ZOU Deci and Mr. GARVALOV suggested deleting paragraph 9, which repeated the last sentence of paragraph 8.

61. It was so decided.

Paragraph 11 (new paragraph 10)

62. The CHAIRMAN asked for clarification of paragraph 11 (new paragraph 10).

63. Mr. GARVALOV (Country Rapporteur) said the paragraph combined two points that he had made during the consideration of the report, which the representative of the State party had acknowledged and promised to follow up.

64. Paragraph 11 (new paragraph 10) was adopted.

Paragraph 14 (new paragraph 13)

65. The CHAIRMAN said it was perhaps excessive to say that workers from all the countries listed experienced discrimination on the basis of their national and/or ethnic origin. He did not believe that was true of Egyptians, for example.

66. Mr. GARVALOV (Country Rapporteur) proposed replacing "who" by "some of whom". Alternatively, the sentence might end after "etc.".

67. The CHAIRMAN suggested that the paragraph should be redrafted to read: "Concern was expressed about the situation of some migrant workers. Further information was requested from the State party."

68. Mr. SHAHI suggested that caution should be exercised. There might be discrimination between Libyans and non-Libyans, but was it certain that there was discrimination against any of the groups mentioned as such?

69. Mr. GARVALOV (Country Rapporteur) said that the Director of the State party's Legal Department had referred to cases of expulsion of illegal

immigrants. He would be reluctant to delete the paragraph altogether. Perhaps it might read: "Concern was expressed about the situation of migrant workers from Chad, Ghana, Mali and Nigeria."

70. Mr. DIACONU supported Mr. Garvalov's proposal. Information would be requested from the Government in the section on recommendations.

71. The CHAIRMAN said that the paragraph still raised difficulties. The expulsion of illegal immigrants had obviously not taken place on the basis of ethnic origin. The Committee should not express concern without specific information on who was subject to discrimination and on what basis.

72. Mr. de GOUTTES said that he was not in favour of deleting the entire paragraph. The Committee had received information concerning discrimination on the basis of ethnic origin, which must be verified. To avoid listing countries he proposed the following wording: "Concern was expressed about allegations of acts of discrimination against certain migrant workers because of their national and/or ethnic origin."

73. Mr. GARVALOV (Country Rapporteur) said that the paragraph might be rephrased to read: "There was insufficient information about the situation of migrant workers." However, he had no objection to Mr. de Gouttes' proposal.

74. The CHAIRMAN said that a consensus appeared to be emerging in favour of the amendment proposed by Mr. de Gouttes.

75. Mr. de Gouttes' amendment was adopted.

76. Paragraph 14 (new paragraph 13), as amended, was adopted.

Paragraph 16 (new paragraph 15)

77. Mr. SHAHI said the paragraph should be made more specific.

78. Mr. GARVALOV (Country Rapporteur) proposed that the end of the first sentence should be amended to read "... the provisions of article 4 of the Convention."

79. Paragraph 16 (new paragraph 15), as amended, was adopted.

80. The draft concluding observations concerning the eleventh to fourteenth periodic reports of the Libyan Arab Jamahiriya as a whole, as amended, were adopted.

Draft concluding observations concerning the tenth to fourteenth periodic reports of Cameroon (CERD/C/52/Misc.44 (issued in French only), future CERD/C/304/Add.53)

Paragraph 9

81. Mr. de GOUTTES (Country Rapporteur), in response to a suggestion by Mr. van BOVEN, proposed that in the first sentence, the words "et de la

Recommandation générale XXIII du Comité" (and General Recommendation XXIII of the Committee) should be added at the end of the first sentence.

82. The CHAIRMAN said he wondered whether pygmies and foreigners should not be dealt with in separate paragraphs.

83. Mr. DIACONU said it was debatable whether the Convention on the Elimination of Racial Discrimination covered the rights of foreigners as such. That point should be made clear or the second sentence deleted.

84. The CHAIRMAN said that Mr. Diaconu was quite correct; differentiation between foreigners and nationals was not within the Convention's purview. However, that concern was met by the wording "tous les droits reconnus par la Convention" (all the rights recognized by the Convention) in the second sentence.

85. Mr. de GOUTTES (Country Rapporteur) suggested that the phrase "de tous les droits reconnus par la Convention" should be amended to read "des droits reconnus par la Convention" (the word "all" being dropped).

86. The CHAIRMAN suggested that paragraph 9 should be redrafted by Mr. de Gouttes, in consultation with Mr. Diaconu, in order to take account of the concerns raised. If members agreed, paragraph 9 could be adopted on that basis.

87. Paragraph 9 was adopted, subject to redrafting by Mr. de Gouttes.

Paragraphs 10 and 11

88. Mr. DIACONU said that paragraphs 10 and 11, like paragraph 9, raised issues that were not part of the Committee's mandate. He did not believe, for example, that restrictions on freedom of the press in Cameroon were at all racially motivated.

89. Mr. de GOUTTES (Country Rapporteur) said that it was perfectly legitimate for the Committee to deal with those issues from the standpoint of the Convention. He suggested merging paragraphs 10 and 11 to read: "Des préoccupations sont exprimées au sujet de l'allégation de certains cas de non-respect du droit à la sécurité des personnes au regard de l'article 5 b) de la Convention et d'atteintes à la liberté d'expression au regard de l'article 5 d) viii) de la Convention." (Concern is expressed about allegations of cases of failure to respect the right to security of the person as referred to in article 5 (b) of the Convention and restrictions on freedom of expression as referred to in article 5 (d) (viii).)

90. Mr. DIACONU said he was willing to believe that violations of the right to security of the person might be racially motivated, but not freedom of the press.

91. Mr. de GOUTTES (Country Rapporteur) said that the possibility of ethnic involvement in the allegations in question should not be dismissed. In any event, by using the word "allegations" the Committee was introducing an element of caution.

92. The CHAIRMAN asked Mr. de Gouttes and Mr. Diaconu to work out acceptable texts for paragraphs 10 and 11. On that understanding, paragraphs 10 and 11 could be adopted.

93. Paragraphs 10 and 11 were adopted, subject to redrafting by Mr. de Gouttes and Mr. Diaconu.

94. Mr. Sherifis took the Chair.

Paragraph 13

95. Mr. van BOVEN proposed that the words "l'article 4 et de" should be inserted before "l'article 6".

96. Paragraph 13, as amended, was adopted.

Paragraph 14

97. Mr. de GOUTTES (Country Rapporteur) proposed the deletion of "des médias" (the media) in the fourth line.

98. Paragraph 14, as amended, was adopted.

Paragraphs 18-20

99. The CHAIRMAN said that discussion of paragraphs 18-20 would be deferred until Mr. Diaconu and Mr. de Gouttes had finished redrafting them.

100. Mr. de GOUTTES (Country Rapporteur) said that in any case the phrase "au regard des dispositions de l'article 5 d) viii) de la Convention" (in respect of the provisions of article 5 (d) (viii) of the Convention) would need to be added.

Paragraph 21

101. Mr. VALENCIA RODRIGUEZ proposed replacing the word "permettre", which suggested that the State party was not permitting victims who so wished to take cases to court, by "faciliter".

102. Mr. de GOUTTES (Country Rapporteur) said that the point made by Mr. Valencia Rodriguez was well taken.

103. Paragraph 21, as amended, was adopted.

Paragraph 22

104. Mr. de GOUTTES (Country Rapporteur) drew attention to a number of minor drafting changes.

105. Paragraph 22 was adopted with minor drafting changes.

Paragraph 26

106. Mr. VALENCIA RODRIGUEZ said that, in keeping with past practice, the Committee should specify in paragraph 26 whether it expected an update or a comprehensive report.

107. Mr. de GOUTTES (Country Rapporteur) said that he was in favour of inserting a reference to an updating report and therefore proposed amending the last phrase, following "2000", to read: "soit une mise à jour des points soulevés dans les présentes conclusions" (updates the points raised in the present conclusions).

108. Paragraph 26, as amended, was adopted.

109. Mr. van BOVEN said that the draft conclusions contained a problem of terminology. Paragraph 9 spoke of "peuples autochtones", whereas in paragraph 17 it had been decided to replace the phrase "peuples autochtones" by "populations autochtones". He preferred "peuples autochtones", and he drew attention to the fact that in the English version of its General Recommendation XXIII, the Committee had spoken of "indigenous peoples".

110. Mr. de GOUTTES (Country Rapporteur) said that in French the term employed was "populations autochtones". The reference in the first line of paragraph 9 would have to be changed accordingly.

111. The CHAIRMAN said that the Committee had thus adopted the draft concluding observations, as amended, with the exception of paragraphs 9, 11, 18, 19 and 20, which were still pending.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (agenda item 6) (continued)

Draft decision 4 (52) on Rwanda (CERD/C/52/Misc.42) (continued)

112. The CHAIRMAN asked Mr. Banton to read out the new draft version of paragraph 4.

113. Mr. BANTON (Country Rapporteur) said that the new draft version of the second and third sentences of paragraph 4 read: "It expressed its profound concern over reports towards the end of 1997 of the massacre of large numbers of persons who had moved from the Democratic Republic of the Congo to live in camps in the north-west of Rwanda. It deplored the climate of impunity persisting in some areas, and noted that the lengthy detention of accused persons under deplorable conditions, did not assist the processes of ethnic reconciliation."

114. Ms. McDOUGALL said that she was troubled by that formulation, because it seemed to leave out the context of the massacres in such a way as to defer to the objections raised by the current Government of Rwanda. It was a peculiarly neutral approach to say that those persons had moved from the Democratic Republic of the Congo to live in camps in Rwanda. Those were persons who were accused of taking part in the 1994 genocide. She certainly did not mean to suggest that their involvement had been established, but in

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1273rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 20 March 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

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PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (continued)

Draft decision of the Committee concerning Rwanda (continued)

The meeting was called to order at 10.20 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

Reports to be considered or reviews to be conducted by the Committee at its future sessions (CERD/C/52/Misc.21/Rev.2) (document circulated at the meeting in English only)

1. The CHAIRMAN invited the members of the Committee to comment on the list of reports to be considered or reviews to be conducted at its next session, contained in document CERD/C/52/Misc.21/Rev.2.

2. Mr. BANTON (Rapporteur of the Committee) said he thought the Committee might include in its work programme all the periodic reports listed in section A of the document, consideration of which had been postponed from the fifty-first session, namely those of Tonga, Nepal, Cuba, Kuwait and Niger, and the first seven reports in section B, concerning reports received since March 1997, namely those of Cyprus, Jordan, Morocco, Finland, Peru and the Republic of Korea.

3. Mr. DIACONU asked whether it might be possible to defer consideration of the report of one of those countries, in which the problems were not unduly pressing, and to replace it by the report of Croatia, which was not only submitting its initial report but was also beset by major difficulties.

4. The CHAIRMAN observed that the section of the document containing the list of countries subject to the review procedure, consideration of which the Committee had decided to postpone at the current session, established a highly ambitious programme for the August 1998 session, which already had a very heavy schedule.

5. Mr. de GOUTTES felt that the review of the case of Haiti should definitely be maintained; the review procedure should not, on the other hand, be applied to Mauritania, whose delegation had assured the Committee that the initial report would be ready for the fifty-third session.

6. Mr. HUSBANDS (Secretary of the Committee) said that the report ought already to have reached the secretariat if it was to be translated, reproduced and circulated to the experts in time to be considered at the August 1998 session.

7. Mr. BANTON said that the third periodic report of Estonia should be included in that category instead of in section F, which concerned initial reports overdue for five years.

8. Provision should also be made, under agenda item 6, for consideration of the situation in Bosnia and Herzegovina, the Democratic Republic of the Congo and Rwanda.

9. He reminded the Committee that it was customary for its Chairman to amend the proposed programme between sessions if he found that necessary.

10. Mr. RECHETOV recognized that it would be physically impossible for the Committee to consider a very large number of reports within the time available. Nevertheless, all the countries included in the proposed programme for consideration at the next session should appear in its provisional agenda, otherwise they might not take the Committee's decisions seriously.

11. The CHAIRMAN, bearing in mind that the quality of the examination process might be impaired by the higher priority given to quantity if the Committee proceeded too rapidly, proposed a shortening of the list of reports and situations.

12. Following an exchange of views in which Mr. BANTON, Mr. SHERIFIS, Mr. GARVALOV, Mr. RECHETOV, Mrs. SADIQ ALI, Mr. de GOUTTES and Mr. YUTZIS took part, the CHAIRMAN summarized the decisions that it appeared the Committee wished to take: in addition to the five countries whose cases had not been considered at the fifty-first session, the Committee would include in its programme of work, in the category of reports received since March 1997, those of the following countries: Cyprus, Jordan, Morocco, Croatia and Gabon. It would apply the review procedure to Haiti and Estonia only; it would not consider the cases of the countries listed in section E; and it would include under agenda item 6 the situation in Bosnia and Herzegovina, Rwanda and the Democratic Republic of the Congo.

13. It was so decided.

List of country rapporteurs for the next session (CERD/C/52/Misc.40/Rev.2) (document circulated at the meeting in English only)

14. Mr. BANTON, introducing the list, said it was the Committee's practice to request experts to volunteer to serve as country rapporteurs, it being understood that the same Committee members could not serve twice running as rapporteur for the same country and could not hold the nationality of the country concerned.

15. Mr. de GOUTTES suggested that Ms. McDougall should serve as rapporteur for Haiti. He also wished to know whether Mauritania had been kept on the list of countries subject to the review procedure. If so, he would like to serve as rapporteur for Mauritania.

16. The CHAIRMAN said that Mauritania was not on the list. The Ambassador of Mauritania to the international organizations in Geneva had requested that consideration of the situation in his country should be postponed pending the preparation of the report.

17. Mr. BANTON observed that rapporteurs had not yet been designated for three countries, namely Haiti, Rwanda and the Democratic Republic of the Congo.

18. The CHAIRMAN proposed that the Committee should request Mr. Banton to find volunteers for those countries, to report any changes in the list of rapporteurs and to inform the Secretariat accordingly.

19. It was so decided.

World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance (continued)

20. Mr. GARVALOV requested that the question of preparations for the World Conference should be included in the agenda for the next session.

21. It was so decided.

22. Mr. GARVALOV said that the Committee's contact group had met the previous day with the persons in the Commission on Human Rights who were responsible for preparing the Conference. When he addressed the Commission on Human Rights that afternoon on the Committee's behalf, he would stress the role that the Committee could play in the preparations for the Conference, especially in the context of the Preparatory Committee.

Draft general recommendations

23. Mr. BANTON reminded the Committee that Mr. Diaconu and Mrs. Sadiq Ali had each submitted a draft recommendation which should be considered at the next session.

Consideration of reservations

24. Mr. BANTON said that the Committee would have before it at its next session a memorandum drafted by Mr. Rechetov and Mr. Diaconu concerning reservations. He invited all members of the Committee to contribute to the discussion.

Other business

25. The CHAIRMAN said that other items could be added to the next agenda at the beginning of the session.

Draft decision concerning the holding of the winter sessions of the Committee at United Nations Headquarters in New York (CERD/C/52/Misc.36/Rev.1) (document circulated at the meeting in English only)

26. The CHAIRMAN suggested the deletion of the wording in the draft decision which read: "Having noted the Secretary-General's estimate of the financial implications;", since the Secretary-General had not yet been able to estimate the financial implications in question.

27. Mr. RECHETOV suggested that the draft decision should be considered concurrently with the draft decision (CERD/C/52/Misc.47) on the possible extension of the Committee's next session, since they both had financial implications.

28. The CHAIRMAN said he thought it preferable that the draft decisions should be discussed separately.

29. Mr. de GOUTTES said he wished to abstain on the draft decision concerning the holding of the winter sessions of the Committee because he was not convinced that it would enhance the Committee's efficiency. The draft

decision was liable to be interpreted as a reversal of the current trend towards the centralization of human rights activities in the United Nations Office at Geneva.

30. Mr. van BOVEN, referring to draft decision CERD/C/52/Misc.36/Rev.1, proposed that the penultimate paragraph should be amended to read: "Decides that, in order to discharge its responsibilities under the Convention, it will every second year hold its winter sessions at United Nations Headquarters in New York and continue to hold its other sessions at the United Nations Office at Geneva."

31. Mr. YUTZIS proposed the merger of the two draft decisions in order to facilitate their adoption.

32. The CHAIRMAN said he opposed Mr. Yutzis' proposal, since there had been a consensus on both draft decisions when they were being prepared. He put Mr. van Boven's proposal to the vote.

33. The amendment proposed by Mr. van Boven was adopted by 9 votes to 4, with 3 abstentions.

34. The draft decision, as amended, was adopted by 12 votes, with 4 abstentions.

Draft decision concerning the extension of the Committee's next session (CERD/C/52/Misc.47) (document circulated at the meeting in English only)

35. The CHAIRMAN said that the draft decision (CERD/C/52/Misc.47) would be considered at a later date.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Draft concluding observations of the Committee concerning its review of the implementation of the Convention in Saint Lucia (CERD/C/52/Misc.14) (document circulated at the meeting in English only)

Paragraphs 1 to 3

36. Paragraphs 1 to 3 were approved.

37. The draft concluding observations of the Committee concerning its review of the implementation of the Convention in Saint Lucia were adopted.

Draft concluding observations of the Committee concerning the tenth to fourteenth periodic reports of Cameroon (continued) (CERD/C/52/Misc.44, future CERD/C/304/Add.53) (document circulated at the meeting in French only)

38. Mr. de GOUTTES (Country Rapporteur) said that the Committee had already approved most of the paragraphs of the draft concluding observations. However, paragraphs 9-11, 18-21 and 26 of the initial draft had been amended to take account of suggestions made by several members, in particular

Mr. Diaconu and Mr. Valencia Rodriguez. A new paragraph 10 had also been proposed. If it was approved, the following paragraphs would have to be renumbered accordingly.

39. The CHAIRMAN regretted that it had not been possible to circulate a printed text summing up the proposed amendments. He therefore requested Mr. de Gouttes to present the amendments paragraph by paragraph.

Paragraph 9

40. Mr. de GOUTTES said that "peuples autochtones" (indigenous peoples) should be replaced by "populations autochtones" (indigenous peoples) in the first line. It had been suggested that the words "et de la Recommendation No. 23 du Comité sur les droits des populations autochtones" (and of the Committee's Recommendation XXIII on the rights of indigenous peoples) should be inserted after the words "de la Convention" (of the Convention). The second sentence of the paragraph was to be deleted.

41. Mr. GARVALOV said that the recommendation in question was a General Recommendation. He therefore proposed that the word "générale" should be inserted after "Recommandation" ("General" before "Recommendation").

42. Paragraph 9, as amended, was approved.

43. Mr. de GOUTTES suggested the addition after paragraph 9, of a new paragraph 10 which would read: "Des informations sur le régime des étrangers vivant dans l'Etat partie sont également nécessaires" (Information is also required on the legal regime applicable to aliens living in the State party).

44. New paragraph 10 was approved.

45. Mr. de GOUTTES said that the subsequent paragraphs would have to be renumbered. However, for greater convenience, he suggested that the numbering remain as it was while the Committee was considering amendments.

Paragraph 10

46. On the suggestion of Mr. DIACONU, it was proposed that the words "certains cas" (cases) should be replaced by the words "certaines allégations" (allegations) and that the words "au regard de l'article 5 b) de la Convention" (with respect to article 5 (b) of the Convention) should be added after the words "sont exprimées" (was expressed). The corresponding wording in brackets at the end of the paragraph would thus be deleted.

47. Paragraph 10, as amended, was approved.

Paragraph 11

48. Mr. de GOUTTES said that the paragraph had been completely revised and now read: "Concernant l'exercice sans discrimination du droit à la liberté d'expression (art. 5 d) viii)) de la Convention, il est fait état avec inquiétude de certaines allégations relatives à des restrictions dans l'accès à la presse et aux médias parce qu'ils seraient accaparés par certains

groupes" (With regard to the exercise, without discrimination, of the right to freedom of expression (art. 5 (d) (viii) of the Convention), certain allegations relating to restrictions on access to the press and media, because they are said to be monopolized by certain groups, are noted with concern".

49. Mr. GARVALOV asked what was meant by "certain groups".

50. Mr. de GOUTTES said that the expression had been proposed by Mr. Diaconu so as to stress the fact that restrictions on access to the media resulted in nothing less than exclusion. However, he wondered whether paragraph 11 did not duplicate paragraph 20, which also mentioned freedom of expression and freedom of the press. If the members of the Committee agreed, it might simply be deleted.

51. It was so decided.

52. Paragraph 11 was deleted.

Paragraph 18

53. It was proposed that the words "prévenir et d'éliminer des actes de discrimination raciale entre les diverses catégories d'étrangers" (prevent and eliminate acts of racial discrimination between different categories of aliens) should replace the end of the paragraph, after the words "afin de" (to).

54. The CHAIRMAN said that the expression "categories of aliens" brought to mind very unpleasant memories going back to the Second World War.

55. Mr. DIACONU suggested that it be replaced with the expression "entre étrangers" (between aliens).

56. The other members supported that proposal.

57. Paragraph 18, as amended, was approved.

Paragraph 19

58. It was suggested that the words "à toute personne sur son territoire, sans distinction de race, de couleur ou d'origine ethnique" should be added after the words "la jouissance de ce droit" ("all persons within its territory, irrespective of race, colour or ethnic origin," before "enjoyment of the right to security") at the end of the paragraph.

59. Paragraph 19, as amended, was approved.

Paragraph 20

60. It was proposed that the word "toutes" (all) should be deleted before the words "les mesures nécessaires" (necessary measures) in the first line and that the words "à toute personne sur son territoire, sans distinction de race, de couleur ou d'origine ethnique" should be inserted after the words "liberté

de la presse" ("to all persons, irrespective of race, colour or ethnic origin," before "and to guarantee freedom of the press") at the end of the paragraph.

61. Paragraph 20, as amended, was approved.

Paragraph 21

62. In accordance with a suggestion made by Mr. VALENCIA RODRIGUEZ, Mr. de GOUTTES proposed that the words "permettre aux victimes" (allow victims) be replaced by "faciliter le recours à la justice pour les victimes" (facilitate access to the courts for victims) and that the words "de porter plainte devant la justice et d'obtenir la condamnation" (to lodge a complaint with the courts and obtain a conviction) be replaced by "afin qu'elles puissent obtenir la condamnation" (so that a conviction can be obtained). "Ainsi que" (as well as) would be replaced by "et" (and).

63. Mr. VALENCIA RODRIGUEZ said that the word "eventuels" might be inserted after the word "actes" in the second line.

64. Mr. de GOUTTES suggested that the word "condamnation" (conviction) be replaced by the word "jugement" (trial).

65. It was so decided.

66. Paragraph 21, as amended, was approved.

Paragraph 26

67. Mr. de GOUTTES pointed out that the amendments to paragraph 26 were strictly editorial; the new version would read: "Le comité invite l'Etat partie à présenter son prochain rapport périodique, attendu le 24 juillet 2000, sous la forme d'une mise à jour, en tenant compte des points soulevés dans les présentes conclusions" (The Committee invites the State party to submit its next periodic report, due on 24 July 2000, as an update taking into account the points raised in the present observations).

68. Paragraph 26, as amended, was approved.

69. The draft concluding observations of the Committee concerning the tenth to fourteenth periodic reports of Cameroon, as orally amended, were adopted.

Draft concluding observations of the Committee concerning the second to seventh periodic reports of Cambodia (CERD/C/52/Misc.45, Future CERD/C/304/Add.54) (document circulated at the meeting in English only)

Paragraphs 1 and 2

70. Paragraphs 1 and 2 were approved.

Paragraph 3

71. Ms. McDOUGALL suggested that the words "including the recent changes in government" should be inserted after the words "political instability" in the sixth line.

72. Paragraph 3, as amended, was approved.

Paragraph 4

73. Paragraph 4 was approved.

Paragraph 5

74. Mr. RECHETOV said that the reference to NGOs was too vague; it was not clear whether it referred to local or international NGOs.

75. The CHAIRMAN said that it was also too restrictive, since it was somewhat unjust to mention NGOs and to omit such institutions as the Red Cross, which played a very important role.

76. Mr. YUTZIS (Country Rapporteur) said that he accepted those comments. However, if the Committee wished not to leave anyone out, the paragraph would have to be lengthened considerably. He suggested that, in the interests of concision, the original wording should be retained.

77. It was so decided.

78. Paragraph 5 was approved without change.

Paragraph 6

79. After a brief exchange of views between the CHAIRMAN and Mr. NOBEL, paragraph 6 was approved without change.

Paragraph 7

80. Ms. ZOU observed that the paragraph dealt with the same subject as paragraph 8, and proposed that it should be deleted.

81. It was so decided.

82. Paragraph 7 was deleted.

Paragraphs 8 to 11

83. Paragraphs 8 to 11 were approved.

Paragraph 12

84. The CHAIRMAN, speaking in a personal capacity, said he was somewhat deterred by the length of the paragraph. It might well dissuade the State party from taking full note of the paragraph. He proposed the deletion of all but the first sentence.

85. Mr. YUTZIS stressed the fundamental importance of the issues dealt with in paragraph 12, particularly the Khmers' theory of racial supremacy. The Committee must call the attention of the State party to that philosophy, which conflicted with the application of the Convention in Cambodia. He was nevertheless prepared to shorten the paragraph and improve it stylistically.

86. Mr. de GOUTTES agreed with Mr. Yutzis. The text under discussion went to the heart of the matter and touched upon vital issues, particularly with respect to the racial discrimination against Vietnamese in Cambodia. The first sentence, on its own, would be most inadequate unless it was suitably reinforced. He therefore supported Mr. Yutzis' suggestion that any amendments to the text should be of a purely editorial nature.

87. The CHAIRMAN invited Mr. Yutzis to revise the text in conjunction with Mr. Banton.

88. Mr. BANTON proposed that the paragraph should be divided into two parts. He suggested the addition, after the first two sentences of the original paragraph 12, of the words: "The several massacres of ethnic Vietnamese, most of them attributed to the Khmer Rouge, have not been properly investigated. Alarm is also expressed over reports that the exploitation of females of Vietnamese origin, in particular children, is growing. Concern is further expressed over racist attitudes among much of the Khmer population, against the Cambodian-born ethnic Vietnamese, who are still perceived as immigrants.".

89. He also suggested the insertion of a new paragraph 13 reading: "Concern is expressed over the limited educational facilities in the villages of ethnic Vietnamese, the lack of legislation authorizing the establishment of schools for them and the obstacles to their children's learning the Khmer language.".

90. Paragraph 12, as amended, was approved.

Paragraph 13

91. Mr. BANTON said that the letter "s" in the word "Highlands" should be deleted.

92. Paragraph 13, as amended, was approved.

Paragraph 14

93. Mr. DIACONU said that it was not for the Committee to make recommendations to the State party concerning the independence of the judiciary and the establishment of the Constitutional Council, since those matters did not fall within the scope of the Convention. If the Committee wished to draw them to the attention of the State party it should include in

its observations a specific formulation aimed at ensuring the application of the Convention. To that end, he proposed that the words "with a view to bringing to an end the impunity of perpetrators of acts of racial discrimination" should be inserted after "the Constitutional Council," and that the rest of the paragraph should be deleted.

94. Paragraph 14, as amended, was approved.

Paragraphs 15 to 21

95. Paragraphs 15 to 21 were approved.

Paragraph 22

96. Mr. YUTZIS proposed the deletion of the second sentence.

97. Paragraph 22, as amended, was approved.

Paragraphs 23 to 25

98. Paragraphs 23 to 25 were approved.

99. The draft concluding observations of the Committee concerning the second to seventh periodic reports of Cambodia as a whole, as orally amended, were adopted.

Review of the implementation of the Convention in Haiti (continued)

100. In accordance with the course of action adopted by the Committee at its 1247th meeting, on 3 March 1998 (see CERD/C/SR.1247, paras. 66-68), Mr. de GOUTTES (Country Rapporteur) presented a draft letter which could be addressed to the Haitian Government on behalf of the Chairman of the Committee. In the letter, the Government of Haiti would be requested "to take into consideration the points already raised in the letter sent by the Chairman of the Committee on 22 August 1997, namely:

the ethnic composition of the Haitian population;

socio-economic indicators of non-integration or marginalization of the most disadvantaged social groups;

discrimination between blacks, mulattoes and whites and also between rural and urban dwellers;

judicial statistics concerning complaints and judgements with respect to racist crimes;

measures taken to promote the principles of the Convention and to encourage the work of NGOs active in that area and in the field of human rights".

101. The Haitian Government was also invited "to take into consideration in drafting its report the comments made in the reports on the human rights

situation in Haiti prepared by Mr. Adama Dieng, independent expert, and by the Secretary-General of the United Nations, dated 17 and 22 October 1997, respectively".

102. The CHAIRMAN said that the draft presented by Mr. de Gouttes was much too detailed. Besides, it was not for the Committee to concern itself with the measures taken by Haiti to encourage the work of NGOs. He suggested sending to the Government of Haiti a more succinct letter, in which the Committee would confine itself to reminding the Haitian authorities of the terms of the letter sent to them by the Chairman of the Committee on 22 August 1997.

103. It was so decided.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (item 6 of the agenda) (continued)

Draft decision of the Committee concerning Rwanda (continued) (CERD/C/52/Misc.42) (document circulated at the meeting in English only)

Paragraph 4

104. The CHAIRMAN reminded the Committee that, at its 1271st meeting, it had adopted the whole of draft decision 4 (52) on Rwanda, with the exception of paragraph 4 (CERD/C/SR.1271, para. 22). He therefore invited the experts to consider that passage.

105. Mr. BANTON (Country Rapporteur), supported by Ms. McDOUGALL, proposed the addition, at the end of the paragraph, of the words "and called on the international community to give increased assistance to those affected".

106. He also proposed the inclusion of a new paragraph 5 reading: "5. The Committee expressed alarm at reports that a new round of genocidal violence has commenced."

107. The CHAIRMAN said he took it that the Committee was prepared to accept the proposal of Mr. Banton and Ms. McDougall. However, the text did not reflect the comments made by Mr. Shahi during the first reading of the draft.

108. He said that the Committee would continue its consideration of paragraph 4 of the draft decision on Rwanda at its next meeting.

The meeting rose at 1 p.m.

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Fifty-second session

SUMMARY RECORD OF THE 1274th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 20 March 1998, at 3 p.m.

Chairman: Mr. ABOUL-NASR

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GE.98-15617 (E)

The meeting was called to order at 3.20 p.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 6) (continued)

Draft decision 4 (52) on Rwanda (continued) (CERD/C/52/Misc.42)

1. Mr. BANTON (Country Rapporteur) proposed, in the light of the previous discussion, adding at the end of paragraph 4 of the text another clause which would read "and called on the international community to give increased assistance to those affected". The following new paragraph 5 would also be added: "The Committee expressed alarm at reports that a new round of genocidal violence has commenced".

2. Draft decision 4 (52) on Rwanda, as amended, was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

Extension of the Committee's sessions (CERD/C/52/Misc.47)

3. Mr. SHERIFIS proposed the following draft decision (CERD/C/52/Misc.47): "The Committee on the Elimination of Racial Discrimination, wishing to keep abreast of its increasing workload and to respond adequately to the current discussions on the reporting process, decides that it is necessary to extend its forthcoming session by five working days. It therefore requests the Secretary-General to take appropriate steps for the implementation of this decision".

4. The CHAIRMAN said that, as the secretariat needed to plan for sessions at least a year in advance, requesting an extension of the forthcoming session would require more time.

5. Mr. HUSBANDS (Secretary of the Committee) said it had taken the Committee against Torture two years to get an additional five working days for its sessions, in part because it had also requested additional time for a particular session, whereas what it had wanted was to extend the length of its sessions on a permanent basis. Obtaining such extensions was a long process, and the chances of the request being approved for the Committee's fifty-third session in August 1998 were virtually non-existent.

6. Mr. BANTON proposed replacing the end of the first sentence with the phrase, "to extend one session each year by five working days".

7. The CHAIRMAN invited the Committee to vote by show of hands on the draft decision, as amended.

8. The draft decision was adopted by 10 votes to 1, with 2 abstentions.

The practice of the Committee (CERD/C/52/Misc.23/Rev.1)

9. The CHAIRMAN invited the Committee to consider the memorandum on the practice of the Committee (CERD/C/52/Misc.23/Rev.1) prepared by Mr. Banton.

10. Mr. BANTON said that, following comments from colleagues, he would be willing to drop the reference to advance notice in the interests of consensus. However, a good principle was not invalidated by its having been abused by a particular State. He invited members to study the document for consideration at the next session, and suggested that the Committee should request the Secretary to brief delegations and reporting States on its content.

11. It was so decided.

12. Mr. de GOUTTES said that, with one exception, all the concluding observations adopted by the Committee had been issued in English only. He regretted that the texts were not available in the Committee's other official languages, and expressed a reservation with regard to the final French version to be prepared, as he had not yet seen it.

13. With reference to the agenda for the next session, there was one item which should not be forgotten: liaison with other human rights treaty bodies and institutions dealing with racial discrimination. The Committee had decided in 1993 to designate each member as a contact point. However, the Committee's membership had changed and the list of contact points should be revised.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 12) (continued)

Seminar on immigration

14. Mr. BANTON, introducing the report of the Secretary-General on the Seminar on Immigration, Racism and Racial Discrimination (E/CN.4/1998/77/Add.1), which had been held in Geneva from 5 to 9 May 1997 within the context of the Third Decade to Combat Racism and Racial Discrimination, said he wished to draw attention to two paragraphs in the conclusions and recommendations. In paragraph 35, the Seminar recommended that the Committee should consider whether article 1, paragraph 2, of the Convention, establishing a distinction between citizens and non-citizens, was compatible with the principles of equality and non-discrimination. As stated in a footnote, he had dissociated himself from that recommendation; he had done so because he thought it was not for the Committee to criticize the Convention whose implementation it had been appointed to monitor. He had also queried whether the Seminar should tell the Committee how to do that.

15. Paragraph 39 stated in part, "Many countries provide consular support to migrants of their nationality and in this way come to learn about discriminatory practices. States may wish to determine whether there is any basis on which consular information might be fed into the process by which treaty bodies monitor implementation". The point was that some States had a lot of migrants moving to other countries and would not be willing to have their consular information submitted during consideration of initial reports, which would seem an unfriendly act. They could, however, pool that information and feed it into the process by which the Committee monitored implementation of the Convention.

16. In reply to a question by the Chairman, he said the report, which was a document of the Economic and Social Council and the Commission on Human Rights, had not yet been considered by any other body. If he learned of any such consideration, he would inform the Committee accordingly; otherwise, the Committee could regard its consideration as completed.

17. The CHAIRMAN suggested that the Committee should take note of the report.

18. It was so decided.

Expert seminar on the role of the Internet

19. Mr. SHAHI introduced the report of the expert seminar on the role of the Internet in the light of the provisions of the Convention (E/CN.4/1998/77/Add.2), which had also been held in the context of the Third Decade in Geneva (10-14 November 1997). He had presented a paper on the obligations arising under the Convention and the relevant provisions of the Universal Declaration of Human Rights and the International Covenants. Many of the papers submitted had acknowledged limitations on the right to freedom of expression, assembly and association. Many Internet providers had been guided by the principles of the United States Constitution whereby the Internet should not be regulated at all as it was a new medium with tremendous potential for education, employment and the dissemination of culture. He had taken the position that it could not be exempt from the obligations of international law, as spelled out in the Covenants and the Convention, and that prohibition of dissemination of racist propaganda and discrimination was as applicable to the Internet as to speech and to print and broadcast journalism. The United States Department of Justice, on the other hand, had argued that the best way to counter racist propaganda was to refute it, rather than to impose legal restraints which would be contrary to freedom of expression.

20. The seminar had discussed the treatment in his paper of the "due regard" clause in article 4 of the Convention, and generally accepted the view that the Internet could not be exempt from the obligations of international law. Service providers and NGOs had argued that, because it would be costly and time-consuming to monitor Internet traffic, they should be treated as common carriers like telephone and telegraph companies. Some NGOs had said that there should be no restrictions on Internet whatsoever and that its benefits were far in excess of any harm that could develop from its use to disseminate hatred.

21. At the seminar he had cited a paper prepared by the delegation of Australia for a previous seminar examining the implementation of obligations under the Convention, which pointed out that many democratic countries proscribed hate propaganda on the Internet and did not follow the rule laid down in the United States Constitution that there should be virtually absolute freedom of speech. While there was general acknowledgment that the Internet was sometimes used irresponsibly, the consensus had been that undue consideration should not be given to United States law.

22. Many participants had said that due regard for the rights to freedom of assembly and association could not be construed as justifying failure to punish the dissemination of racial hatred. He had cited a statement made by Mr. Valencia Rodriguez at a previous seminar to the effect that interpretations of the Convention were without legal effect. The view of the seminar had been that the relevant provisions of the International Covenants, the Universal Declaration and article 4 of the Convention on the Elimination of Racial Discrimination should be used to determine what should be permitted on the Internet. One of its recommendations, mentioned in paragraph 155 of the report, had been that the Committee, in examining reports by States parties, should include references to the Internet.

23. Other participants had said that disallowing racist platforms in cyberspace would not eradicate racism. The enormous resources needed to monitor the Internet should instead be channelled into building Internet capacity in regions that were lagging in terms of technology. The NGOs had emphasized that racism had existed long before the Internet had come into being and would be eradicated only through education and empowerment of disenfranchised communities.

24. Among the other points discussed at the seminar had been the extent to which the rights to freedom of association and freedom of assembly were limited under the provisions of international instruments. Reference had been made to several court judgements, and he thanked Mr. de Gouttes for providing him with information on the European Court's interpretations of the "due regard" clause.

25. Many participants had pointed out that their national parliaments had enacted measures to prohibit racist material on the Internet, but underlined the fact that the problem must be tackled at the international level as well. There had also been considerable discussion of how the Internet was used to victimize indigenous populations throughout the world.

26. The representative of Sweden had spoken about the Swedish Responsibility for Electronic Noticeboards Bill, under which providers would be obliged to give users information about their identity and to prevent continued dissemination of messages inciting to criminal acts. The NGOs had objected strongly to mandatory identification of providers, arguing that such a rule would enable repressive Governments to pursue dissidents and stifle criticism. The Swedish law was important because, to some extent, it made providers responsible to some extent for what was transmitted by their services.

27. Some possible controls discussed included filtering and labelling Internet content and establishing a system of mandatory signatures to identify the origin of messages. Some participants had argued that a system of mandatory signatures could easily be evaded and that there should be no attempt to end anonymity on the Internet.

28. Emphasis had been placed on the need for education to counter racist propaganda on the Internet; references had been made to the importance of the Internet as a tool of the human rights community and to the Websites of United Nations Headquarters and of the High Commissioner for Human Rights.

29. There had been much discussion of a code of conduct for the Internet, a matter which many felt should be given further consideration by the Commission on Human Rights.

30. Considerable stress had been laid on preventing the widening of inequalities between the developed and developing countries. Internet users were expected to number 1 billion in the next few years, but only 0.6 per cent of the computers that gave access to Websites were found in developing countries. Unless the United Nations played a role in providing wider access to the Internet for the developing world, inequalities between North and South, and between population groups within States, would grow.

31. In conclusion, he said that in view of the Internet's enormous potential for disseminating hate propaganda, pornography, paedophilia and other evils, it would be a subject of continuing concern to the Committee and all other human rights bodies.

32. Mr. RECHETOV said that the seminar had dealt with a number of questions of importance to the Committee. There was no doubt that the Convention should be taken into account in the framing of a code of conduct for the dissemination of material over the Internet.

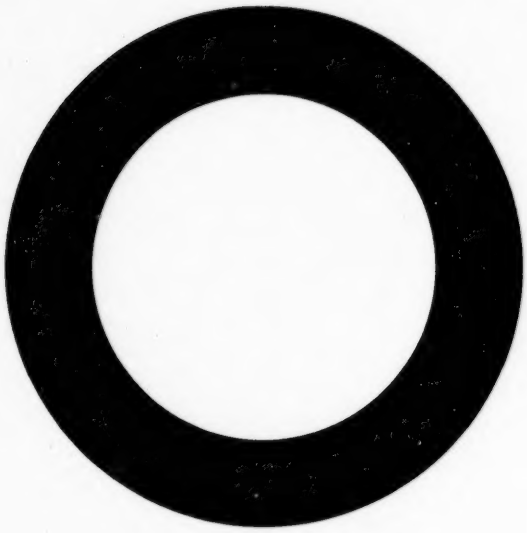
33. He regretted that time constraints had not permitted Mr. Shahi to discuss the question of reservations to the Convention. In his view, such reservations were not compatible with the Convention and he hoped there would be time to discuss them at the Committee's following session. He did not agree with the view that declarations made at the signing or ratification of the Convention had no legal effect, as they were unilateral acts of States. They raised a fundamental question for discussion, namely who had the right to interpret the Convention.

34. The CHAIRMAN thanked Mr. Shahi for his explanation of the report of the seminar. He drew Mr. Rechetov's attention to paragraphs 39-41 of the report of the seminar, which dealt with the question of reservations to the Convention. He suggested that the Committee should reflect on the issues raised at the seminar, and that Mr. Shahi should report to it at its following session on the consideration given to the seminar report by the Commission on Human Rights.

CLOSURE OF THE SESSION

35. After an exchange of courtesies, the CHAIRMAN declared the fifty-second session of the Committee closed.

The meeting rose at 4.25 p.m.



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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-third session

SUMMARY RECORD OF THE 1275th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 3 August 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

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GE.98-17425 (E)

The meeting was called to order at 10.10 a.m.

OPENING OF THE SESSION (item 1 of the provisional agenda)

1. The CHAIRMAN declared open the fifty-third session of the Committee on the Elimination of Racial Discrimination.

STATEMENT BY THE DEPUTY HIGH COMMISSIONER FOR HUMAN RIGHTS

2. Mr. TER HORST (Deputy High Commissioner for Human Rights) said that, while there had been no change in the number of States parties which had ratified or acceded to the International Convention on the Elimination of All Forms of Racial Discrimination, the Syrian Arab Republic had ratified the amendment to article 8 on the financing of the Committee's work, bringing the number of such ratifications to 24. However, many more would be needed before the amendment could enter into force.

3. Five States parties (Austria, Finland, Germany, Netherlands and Norway) had filed objections with the Secretary-General concerning the reservation made by Saudi Arabia regarding the application of the Convention to the effect that Saudi Arabia would implement the provisions of the Convention providing that they did not conflict with the precepts of the Islamic Shariah.

4. Since the Committee's previous session, the Commission on Human Rights had adopted resolution 1998/26, entitled "Racism, racial discrimination, xenophobia and related intolerance", in which it had regretted the continued lack of interest and financial resources devoted to the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination and had noted that very few of the activities planned for the period 1994-1995 had been carried out. It had concluded that the financing of the Programme of Action was inadequate and suggested that the General Assembly should consider other sources of financing, including regular budget resources. The Commission had recommended that the activities of the Programme of Action should be directed towards preparations for the planned World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance.

5. The Commission had further decided to create an open-ended working group, to meet at its next session, to review proposals for the preparation of the World Conference. It had recommended that the High Commissioner for Human Rights should be designated by the General Assembly as the Secretary-General of the World Conference and that she should consult Member States with a view to determining a date and venue for the World Conference. States, regional organizations, non-governmental organizations and relevant United Nations bodies, including the Committee, were invited to take an active part in the preparations for the World Conference.

6. The Commission had invited the Committee on the Elimination of Racial Discrimination to submit its ideas about the objectives of the World Conference to the next session of the Commission and to the Preparatory Committee, to prepare a series of studies and to take an active part in the preparatory process and in the World Conference itself. He welcomed the

establishment of a three-member contact group to discuss the role and contribution of the Committee with the Commission and the Office of the High Commissioner for Human Rights.

7. He drew the Committee's attention to the inter-branch Racism Project Team established within the Office of the High Commissioner in March 1998 to coordinate all the Office's activities related to racism. The secretariat of the Committee formed part of that team, which would also liaise with other United Nations bodies and with intergovernmental and non-governmental organizations.

8. He welcomed the completion by two experts from the Committee, together with two experts from the Sub-Commission on Prevention of Discrimination and Protection of Minorities, of a joint working paper on article 7 of the International Convention, which he hoped would be followed by further collaborative efforts. There had been a suggestion that the Committee and the Sub-Commission should hold a joint seminar on human rights education, which might be a useful contribution to the preparations for the World Conference. He assured the Committee of the continued support of the Office of the High Commissioner for Human Rights in the Committee's important work.

9. Mr. BANTON congratulated the Deputy High Commissioner on the World Wide Website set up by the Office of the High Commissioner (http://www.unhchr.ch). He suggested that State party reports due for consideration by the Committee should be made available and clearly advertised on the Website well in advance, to assist the work both of Committee members and of other interested parties such as non-governmental organizations. He regretted that so important a document as the report of the latest meeting of persons chairing the human rights treaty bodies was not yet available on the Website. He suggested that a section of the Website should be devoted to information relating to the preparations for the World Conference against Racism.

10. The CHAIRMAN said that he had been concerned to note from the Spring 1998 issue of Human Rights, a quarterly review of the Office of the United Nations High Commissioner for Human Rights, that the Office's budget was extremely small, particularly its budget for the campaign against racial discrimination. He suggested that the Committee should hold a short meeting with the Office of the High Commissioner to discuss the low level of budget resources available.

11. Members of the Committee held differing views regarding the question of reservations, and a paper had been prepared on the subject. His own opinion was that it was a matter for States parties and not a concern of the Committee.

The meeting was suspended at 10.30 a.m.
and resumed at 11.20 a.m.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (CERD/C/341)

12. The CHAIRMAN invited the Committee to adopt the provisional agenda (CERD/C/341).

13. Ms. McDOUGALL asked whether the planned World Conference would be discussed under agenda item 9, "Third Decade to Combat Racism and Racial Discrimination".

14. The CHAIRMAN suggested that it should be considered under agenda item 2, "Organizational and other matters", without prejudice to further discussion under item 9.

15. Mr. de GOUTTES drew the Committee's attention to the general guidelines regarding the form and contents of periodic reports (CAT/C/14/Rev.1) adopted by the Committee against Torture. Those guidelines emphasized the importance of information which the Committee had requested after considering a periodic report, and called upon States parties to include a special section containing that information in their next report. It was a useful idea which the Committee on the Elimination of Racial Discrimination might wish to adopt.

16. The CHAIRMAN suggested that, as from its next session, the Committee should add a new agenda item, with a title such as "General debate", under which it would devote one or two meetings to discussing topics of a general nature not covered by the consideration of State party reports. Examples might be the budget resources allocated to United Nations human rights activities, the impact of the Committee's general recommendations, or the issue of compensation in cases of racial discrimination, not only for victims of the Holocaust, but also for American Indians, slaves shipped to the Americas from Africa and countries whose cultural treasures had been plundered to adorn other countries' museums. Such a debate would enable the Committee to address the really major and vital issues of racial discrimination, such as the genocidal massacres which took place so frequently in various parts of the world, instead of confining itself to the details of a State party's legislation.

17. Mr. SHERIFIS, observing that the Committee should be concerned with the critical issues of the day, suggested that, in the context of such a general debate, it should assess the extent to which the Committee's general recommendations, notably General Recommendation XXII on refugees and displaced persons and General Recommendation XXI on the right to self-determination as a basis for an alleged right to secession, both of them relating to major worldwide issues, had been implemented since their adoption by the Committee two years earlier.

18. Mr. GARVALOV agreed that a general debate would be conducive to a detailed discussion of wider issues that could not be addressed during the consideration of periodic reports. In addition to addressing the specific problems alluded to by Mr. Sherifis, the Committee could also put forward ideas on the forthcoming World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance, discuss the general compliance of States parties with the Convention, or consider whether the positions the Committee had taken on minorities had perhaps downplayed or overplayed minority rights.

19. Mr. van BOVEN observed that the Committee on Economic, Social and Cultural Rights also devoted one day to a general discussion, but focused on one broad issue determined in advance, and that the Committee, too, would do

well to limit its focus. Moreover, the Committee on Economic, Social and Cultural Rights invited outside experts to participate in its discussion. The Committee on the Elimination of Racial Discrimination would attract more attention and reach a broader audience if it did the same. It would be an innovative approach, but one not precluded by the Convention.

20. Mr. SHERIFIS suggested that the general debate could focus partly on broad issues and partly on more specific ones. As for the participation of outside experts, the Committee could, for instance, in the event of a discussion on General Recommendation XXII, invite the representative of the Secretary-General on internally displaced persons and the United Nations High Commissioner for Refugees to participate in the discussion of those topics.

21. Mr. de GOUTTES said that, although such an approach would have financial implications, he agreed with Mr. van Boven that the Committee had to be more open to the outside world and establish closer relations with those working in the human rights field elsewhere. The Committee should revive the procedure of having individual members responsible for liaison with outside groups in particular areas.

22. The CHAIRMAN said that he agreed the Committee could move progressively towards establishing a day of general debate, for which members might propose topics in advance.

23. The agenda was adopted.

ORGANIZATIONAL AND OTHER MATTERS

24. The CHAIRMAN invited comment on the matters proposed for discussion in paragraph 2 of the annotations to the provisional agenda.

25. He again drew attention to the Spring 1998 issue of the quarterly review Human Rights, page 29 of which indicated that of the 54 million dollars in financial requirements for human rights activities for 1998, only 20 million dollars had been contributed; there had been no contributions whatsoever for action to combat racism and racial discrimination, for indigenous people, or against slavery.

26. Mr. BANTON, recalling the concluding observations adopted at the previous session concerning the seventh to ninth periodic reports of Israel, and specifically the paragraph on the treatment of detained persons, said that the Committee against Torture had recently adopted concluding observations that took into account allegations of ill-treatment. He suggested that they should be circulated to members of the Committee on the Elimination of Racial Discrimination, so that one or two sentences could be added to its own concluding observations, drawing attention to the conclusions of the Committee against Torture.

27. The CHAIRMAN suggested that the concluding observations adopted on the same issue by the Human Rights Committee should also be circulated.

28. Mr. RECHETOV said that the Committee had to take an even-handed approach to all periodic reports. There had been reactions from other countries and

other bodies to the Committee's concluding observations on other periodic reports; and if the Committee reacted in one case, it might be forced to do so in others. He urged members not to revise decisions already adopted on a periodic report.

29. Mr. van BOVEN drew attention to a letter received from the Government of the Federal Republic of Yugoslavia containing comments on the Committee's concluding observations concerning Yugoslavia's eleventh to fourteenth periodic reports. The letter must be taken up by the Committee at its current session, possibly under agenda item 3 or 4, not only because of the recent deterioration of the situation in Kosovo, but also since it raised issues concerning the status of comments on concluding observations submitted by States parties.

30. The CHAIRMAN confirmed that the letter would be given due attention, particularly since it called for a decision by the Committee on whether the publication of such comments in the Committee's report to the General Assembly would be in accordance with article 9.2 of the Convention.

31. Mr. GARVALOV reported on the work of the small contact group established at the Committee's fifty-second session to liaise with the Preparatory Committee for the World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance and to ensure the Committee's active participation in preparations for the event. At the end of the previous session the contact group had held talks with representatives of the Preparatory Committee to make it clear that, collectively and individually, the Committee could provide valuable input to the preparations for and work of the Conference. A list of the key issues to be included in the Conference agenda had been drawn up. As chairman of the contact group, he had also addressed the Commission on Human Rights to convey the Committee's views on the Conference. He drew attention to paragraph 51 of Commission on Human Rights resolution 1998/26 which invited the Committee to play an active role in preparations for the Conference.

32. Since the previous session members of the contact group had continued to exchange ideas which it hoped to share with the members of the Committee. He suggested, therefore, that an open-ended working group should be set up early in the current session with a view to preparing a final report on the subject for submission to the next session of the Commission on Human Rights.

33. The CHAIRMAN thanked the contact group for its efforts and requested it to prepare a document to facilitate the Committee's discussion on the subject.

34. Mr. DIACONU shared the concerns voiced regarding reservations to the Convention and related comments. The information currently available to the Committee on the subject was very out of date (document CERD/C/60/Rev.2) and made no mention of important reservations such as those by the United States, Saudi Arabia, Japan and Yemen. More up-to-date information must be provided. He further requested that copies of the recently adopted Statutes of the International Criminal Court should be made available to members of the Committee.

35. He was not satisfied with the way the Committee had dealt with matters relating to the crisis in Kosovo at its previous session. The Committee's concluding observations were not objective and did not reflect all the views expressed. Since regional and international bodies now had a better understanding of the issues at stake, the Committee should redraft its comments on the subject.

36. The CHAIRMAN said he hoped that Mr. van Boven, who had attended the Conference in Rome which had adopted the Statutes of the International Criminal Court, would be able to provide the Committee with some insight into the matter during its discussion.

37. Mr. HUSBANDS (Secretary of the Committee) said that all reservations to and comments on international instruments were officially registered with the Secretary-General, with a weekly electronic update. Such information could be made available to Committee members.

38. Mr. RECHETOV endorsed Mr. Diaconu's request to provide updated information on reservations and comments in an easily readable format. The whole issue of reservations to the Convention required serious consideration by the Committee and might be discussed on the basis of the joint contribution submitted by Mr. Diaconu and himself.

39. The Committee must also examine in detail the Statutes of the International Criminal Court and make its views known on the document, as appropriate. He welcomed the idea of a court with international jurisdiction for war crimes, unlike the Nuremberg, the Hague or other war crime tribunals which had been set up for a specific purpose, under special circumstances, and could not therefore be entirely impartial.

40. Mr. SHERIFIS sought clarification. He had understood that the letter from the Federal Republic of Yugoslavia would be discussed in connection with agenda item 4, with recent events in the province of Kosovo being discussed as and when appropriate.

41. He welcomed the information provided by the secretariat on the comparative costs of meetings in New York and Geneva and would appreciate further information on the venue and costs of meetings of other bodies. He hoped that the important matter of meeting costs which came under agenda item 2 would be dealt with promptly.

42. Mr. VALENCIA RODRIGUEZ thanked the contact group for its efforts, which he hoped would be pursued during the current session. He would welcome more information on the financial constraints, which reportedly might delay the holding of the World Conference.

43. The document drafted by Mr. Diaconu and Mr. Rechetov on reservations was very useful and required careful consideration by the Committee, whose comments might be helpful to States parties, bearing in mind the Chairman's observations about the Committee's competence to comment on States parties' reservations.

44. Mr. SHAHI asked if the contact group could ascertain whether the World Conference against Racism would look at the question of racist propaganda and material on the Internet, a matter which was of particular concern to developing countries. Commending the study prepared by Mr. Diaconu and Mr. Rechetov on reservations, he asked if the Committee was competent to express an opinion as to whether reservations conflicted with the object and purpose of the Convention, and, if so, what effect that would have. It should be borne in mind that the issue concerned other treaties as well.

45. Mr. de GOUTTES enquired about developments regarding the various subjects proposed by the Committee as warranting attention at the World Conference and wondered whether the Committee might single out some of those subjects for particular emphasis by the contact group.

46. He also asked whether Mr. Banton intended to continue the work he had done thus far on analysing the status of implementation of the Convention in States parties and whether he would submit his findings to the World Conference.

47. The CHAIRMAN informed the Committee that Kuwait and Estonia had requested that consideration of their reports should be postponed.

48. Mr. RECHETOV said that the Committee needed to be given assurances as to when it could consider those reports.

49. The CHAIRMAN said that the Permanent Mission of the State of Kuwait had requested postponement of consideration of its report (CERD/C/299/Add.16) until the fifty-fourth session, thereby implicitly committing itself to a specific date.

50. Mr. HUSBANDS (Secretary of the Committee) read out a note from the Permanent Mission of the Republic of Estonia in which it regretted the delay in submitting its initial report but did not commit itself to a particular date.

51. The CHAIRMAN proposed that consideration of the report of Kuwait should be postponed until the fifty-fourth session and that the report of Estonia be scheduled for the August 1999 session.

52. It was so agreed.

53. Mr. van BOVEN expressed his concern at the absence of certain members of the Committee whose other commitments prevented them from fulfilling the mandate entrusted to them. He suggested that the Chairman or the Secretariat might contact those members to ask them whether they intended to participate in the work of the Committee, if the members had not already informed the Secretariat of their plans.

54. The CHAIRMAN said that Mr. Ferrero Costa had advised him that he would be unable to attend the session, and that Mr. Wolfrum would arrive in time for the second week of the session.

55. Mr. RECHETOV said that he, too, felt that the absence of members of the Committee for entire sessions was detrimental to the quality of the work of the Committee.

56. The CHAIRMAN said that he would contact the absent members of the Committee.

57. Mr. BANTON said that during the session he intended to raise the question of the situation of gypsies in the Czech Republic. He had documentation which he had passed on to Mr. Diaconu, who had been Country Rapporteur when the Committee had considered the initial and second periodic reports of the Czech Republic (CERD/C/289/Add.1) in March 1998. Other members of the Committee were also requested to give him any relevant information they might have.

The meeting rose at 1 p.m.